

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 458 - SB 927

March 18, 2013

SUMMARY OF BILL: Expands the “Drug-Free School Zone” to a “Crime-Free School Zone.” Requires enhanced and mandatory minimum sentences for specified crimes committed on a public school bus, within 1,000 feet of the real property comprising a designated public school bus stop, any elementary, middle, or secondary school, preschool, child care agency, public recreational center, or public park.

Imposes sentence enhancements for assault, aggravated assault, reckless endangerment, vehicular assault, female genital mutilation, violation of an order of protection or restraining order, communicating a threat concerning a school employee, robbery, aggravated robbery, especially aggravated robbery, sexual offenses enumerated in Tenn. Code Ann. § 39-13-5, any offense involving a prohibited firearm if the provisions of this bill regarding crime-free zones are not already an essential element of the offense, any felony involving a deadly weapon, and carjacking.

Authorizes specified civil penalties in addition to criminal penalties. Requires offenders to serve the entire minimum sentence prior to becoming eligible for sentence reduction credits.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$952,100/Incarceration*

Assumptions:

- The bill deletes Tenn. Code Ann. § 39-17-432, which created the “Drug-Free School Zone,” but includes those drug offenses in the newly created “Crime-Free School Zone.”
- According to the Department of Correction (DOC), when adjusting for a possible 15 percent sentence reduction credit, most offenders sentenced for the crimes enumerated in this bill are currently serving more than the minimum sentence. The offenders used to calculate the additional costs—aggravated robbery and carjacking—are assumed to have earned sentence credits and did not serve a minimum sentence.
- According to the DOC, it is assumed that 10 percent of the admissions for aggravated robbery and carjacking were committed on a bus, within a school zone or bus stop, child care agency, library, public recreation area, or public park. The DOC further assumes that each aggravated robbery admissions affected would serve an additional 0.78 years, and that each carjacking admission affected would serve an additional 0.81 years.
- According to DOC, there has been a 10-year average of 667.6 admissions for aggravated robbery and 29.3 admissions for carjacking each year for the past 10 years. The bill

would result in 67 admissions (667.6×0.10) for aggravated robbery serving an additional 0.78 years and 3 admissions (29.3×0.10) for carjacking serving an additional 0.81 years.

- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2013 is \$64.17.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for eight additional aggravated robbery admissions for a total of 75 ($67 + 8$).
- According to DOC, 33.75 percent of offenders will re-offend within one year of their release. A recidivism discount of 33.75 percent has been applied to this estimate to account for the impact of offenders who will re-offend under current law within the additional time added by this bill. It is assumed that the re-offender will commit the subsequent offense at the same felony level as under current law ($75 \text{ offenders} \times .3375 = 25 \text{ offenders}$).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 50 offenders [$75 \text{ offenders} - 25 \text{ (recidivism discount)}$] serving an additional 0.78 years (284.90 days) for a total of \$18,282 ($\$64.17 \times 284.90 \text{ days}$). The cost for 50 offenders is \$914,100 ($\$18,282 \times 50$).
- Population growth will not affect the number of carjacking admissions under the bill.
- According to DOC, 33.75 percent of offenders will re-offend within one year of their release. A recidivism discount of 33.75 percent has been applied to this estimate to account for the impact of offenders who will re-offend under current law within the additional time added by this bill. It is assumed that the re-offender will commit the subsequent offense at the same felony level as under current law ($3 \text{ offenders} \times .3375 = 1 \text{ offender}$).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on two offenders [$3 \text{ offenders} - 1 \text{ (recidivism discount)}$] serving an additional 0.81 years (295.85 days) for a total of \$18,985 ($\$64.17 \times 295.85 \text{ days}$). The cost for two offenders is \$37,970 ($\$18,985 \times 2$).
- The total additional increase in state expenditures will be \$952,070 ($\$914,100 + \$37,970$).
- The bill will not result in any new convictions. Rather, it will increase the time served for current offenses being prosecuted. It is assumed that any impact on the caseloads of the District Attorneys General Conference, the District Public Defenders Conference, and the courts can be accommodated within existing resources.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/trm